(2)

Supreme Court, U.S.
FILED

DOCKET NO.

001366 MAR 1 - 20[illegible]

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

TERM: 4, OCTOBER 2000 to 2001.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Jeffrey Alan Olson Plaintiff vs. David M. Duffy (Judge), Diana S. Eagon (Judge), William R. Howard (Judge), Marybeth Dorn (Referee), Mary Catherine Lauhead (guardian ad litem), Kisson, Clugg, Linder & Dittberner Ltd. Defendents	**PETITION FOR WRIT OF CERTIORARI** (Appendex)

Jeffrey Alan Olson, pro se, 380 Bert Street, P.O. Box 536, Lake Crystal, Minnesota, 56055 Phone (507) 726-6744 for Plaintiff.
Peter M. Ackerburg, Assistant Attorney General, SOLICITOR GENERAL SECTION Suite 1100 445 Minnesota Street, St. Paul, Minnesota, 55101-2128. (612) 282-5700 for Defendant Judge and guardian ad litem.
Gerald O. Williams Jr., Kissoon, Clugg, Linder & Dittberner, Edina, Minnesota, 3205 West 76th Street, Edina, Minnesota 55435 Phone (612) 896 1099. for Defendant Kissoon, Clugg, Linder & Dittberner, Ltd.

63 pp

(i) APPENDEX

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT COURT
COUNTY OF HENNEPIN
FAMILY DIVISION

Paula Marie Olson,
Petitioner, ORDER
vs. Court file No. 216900
Jeffrey Alan Olson,
Respondent.

The above-entitled matters came duly on for hearing before Referee Marybeth Dorn March 4, 1996. APPEARANCES:

Michael E. Stephen, Esq., appeared for and on behalf of Petitioner.

Alan J. Albrecht, Esq., appeared for and on behalf of Respondent.

Based upon the evidence adduced, the argument of counsel, and all of the files, records, and proceedings herein,

THE COURT FINDS:

1. Pursuant to this Court's Order dated December 13, 1995, the issues of the respondent's child support obligation, medical support and disclosure of the petitioner's residence address to the respondent were continued to March 4, 1996.

2. In late February, 1996, the respondent's attorney requested a continuance of this matter because the respondent's attorney was advised that a continuance would not be granted, over the objection of the petitioner and her attorney, because the respondent's personal appearance was not necessary for the hearing and he was aware of the scheduled hearing since mid-December, 1995. The petitioner and her attorney abjected to a continuance of the hearing.

3. Temporary motions are generally based on affidavit evidence. The respondent has had ample opportunity to

provide affidavit evidence.

4. The respondent's net monthly income is $1,578.81. Pursuant to the statutory support guidelines, his child support obligation should be $395.00 per month.

5. The Petitioner requests that the respondent be required to pay child support retroactively to the date this action was commenced, November, 1995. It is reasonable to initiate the respondent's child support obligation effective January 1, 1996.

6. The respondent is a member of the U.S. Marine Corps. His social security number is 476-98-9345. His date of birth is December 1, 1969.

7. The petitioner's date of birth is March 1, 1972. Her social security number is 471-88-8833.

8. Neither attorney addressed the issue of disclosure of the petitioner's address at the hearing on March 4, 1996. That issue cannot be substantively determined.

9. On or about March 1, 1996, the respondent filed a Notice of Motion and Motion and Affidavit, requesting unsupervised visitation and an Order allowing his mother to exercise visitation with the parties' minor child. The petitioner objects to consideration of those motions, because they were not timely served.

10. The respondent had sufficient time within which to serve and file his moving papers in a timely fashion. If the Respondent wishes to proceed with a motion concerning the issue of visitation, he may arrange for a hearing date at a later time. The Petitioner has not had sufficient time within which to respond to the respondent's motions.

IT IS ORDERED

1. The respondent shall pay, as

and for temperary child support, the sum of $395.00 per month, commencing January 1, 1996.

2. Said child support and/or spousal maintenance payments as ordered herein shall be deducted by the respondent's present employer, or other payer of funds, from respondent's income, regardless of source, and forwarded to the Hennepin County Support and Colloections Services, A-9 Government Center, 300 South Sixth Street, Minneapolis, Minnesota 55487.

3. That until the automatic income withholding ordered herein is implemented, the respondent shall be responsible to make the payments ordered herein directly to the Hennepin County Support and Collections Services, A-9 Government Center, 300 South Sixth Street, Minneapolis, Minnesota 55487.

4. APPENDIX A dated 1, 1995 attached hereto is incorporated herein by reference.

5. The respondent shall maintain in full force and effect all policies of mdical, hospitalization and dental insurance now in force for the benefit of the petitioner and the parties' minor child.

6. Paragraph 1, 2, 3, 4 and 5 of the Order dated 12, 1995 shall continue in full force and effect.

7. Copies of this order shall be mailed to counsel, who shall see that their clients are properly served.

Dated: March 11, 1996

THE FORGOING FACTS WERE FOUND BY ME AFTER DUE HEARING AND THE FOREGOING ORDER THEREON IS COMMENDED.

"s/Mary Beth Dorn."

Referee Marybeth Dorn

FINDINGS OF FACT AND ORDER APPROVED AS OF DATE HEARD.

ORIGINAL SIGNED BY

Judge William R. Howard

Judge of District Court

Family Court Division

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT COURT
COUNTY OF HENNEPIN
FAMILY DIVISION

Paula Marie Olson,
Petitioner,
vs.
Jeffrey Alan Olson,
Respondent.

ORDER
Court File No. DC216900

The above-entitled matter came duly on for hearing before Referee Marybeth Dorn on September 9, 1996.

APPEARANCES:

Michael E. Stephen, Esq., appeared for and on behalf of Petitioner.

Alan J. Albrecht, Esq., appeared for and on behalf of Respondent.

Based upon the evidence adduced, the argument of counsel, and all of the files, records, and proceedings herein.

THE COURT FINDS:

1. Pursuant to this Court's Order dated December 13, 1995, the petitioner was granted temporary custody of the parties' minor child, subject to the respondent's reasonable visitation, which was to be supervised by a person(s) agreeable to the parties, commencing in May, 1996.

2. At the time of the first temporary hearing in this matter in December, 1995, the respondent was an active member of the military service and located in the state of California. The undersigned Referee engaged in a conference call with a California judicial officer in a divorce action which had been initiated by the respondent in California prior to the initiation ofthe petitioner's legal seperation proceeding in this state. Both parties were represented by legal counsel at that time and the parties and

counsel were present during the conference call. As a result of the conference call, the parties reached an agreement that Minnesota would assume jurisdiction over the parties for the purposes of the petitioner's legal seperation proceeding, that the respondent's divorce action commenced in the State of California would be dismissed, and that this court would have personal jurisdiction over the respondent for all matters arising out of this proceeding. Pursuant to the parties' agreement, the petitioner was granted temporary custody of their son, Jake, born March 22,1995. The respondent's supervised visitation was to commence in May, 1996, when it was expected he would travel to Minnesota.

3. Pursuant to this Court's Order dated March 11, 1996, the respondent is required to pay temporary child support to the petitioner at the rate of $395.00 per month, commencing January 1, 1996. The Respondent's child support obligation was based upon his net monthly income of $1,578.81.

4. The petitioner now requests an order permitting her to move the residence of the parties' minor child from this state to the State of Pennsylvania.

5. The petitioner has been assisted by her family financially and otherwise. The sister who was primarily assisting her in this state moved to New York and the petitioner claims that another sister, who resides in Harrisburg, Pennsylvania, has invited her, Jake and the petitioner's child from a prior relationship to reside with her in Pennsylvania.

6. The petitioner is currently a recipient of AFDC.

7. The respondent objects to the petitioner removing the minor child from this state, claiming that he believes that removal may "seriously impair" Jake's

visitation with him and that he intends to move to Minnesota upon his discharge from the military service. The respondent claims that the petitioner is requesting permission to move from the state of Minnesota because she wishes to move away from him and not for econimic reasons.

8. The respondent's attorney claims that, after taking the petitioner's deposition, he believes the petitioner suffers from some type of mental disability. Presumably, the respondent has been aware of the petitioner's intellectual and mental status, but he has never raised that status as a matter concern.

9. The respondent has now filed an Answer and Counter-Petition, wherein he requests an Order granting him legal and physical custody of Jake.

10. The petitioner moved to the State of Minnesota and initiated a legal seperation proceeding because she did not meet the residency requirements to initiate a divorce action. At a time when the respondent is locating himself to this state, she now requests permission to move the residence of their minor child. As custody is in issue, and there is no immediate need or immediate reasonable basis upon which to move Jake from this state, Jake's residence should remain in this state until final determination may be made on the issues of custody and visitation.

11. Counsel for the parties agree that Court Services should conduct a custody and visitation evaluation.

12. The respondent asserts that he should not be required to engage in supervised visitation. The affidavit initially provided by the petitioner in this action alleged that the respondent was physically abusive to her and her child from a prior relationship.

Additionally, the repondent agreed to engage in supervised visitation. There is little, if any, evidence of the amount of contact that has occurred between the respondent and Jake since 1995 and there is insufficient evidence of the amount of cantact that has occurred between the respondent and Jake since 1995 and there is insufficient evidence to warrent modification of this Court's initial order granting the respondent supervised visitation.

13. The respondent requests an order reserving his child support obligation, claiming that he now has no income because he has been discharged from the military service and is not yet employed. The respondent did not give notice of his request for suspension of his support obligation will be reserved. It is recommended that the respondent and his attorney initiate contact with the County Attorney's Office and persue the issue of modification of his support obligation through the administrative process.

14. The parties agree that each should be responsible for any debt he/she incurred or incurs since September 23, 1995.

IT IS ORDERED:

1. The Petitioner's request to move Jake's residence from this state to the State of Pennsylvania is denied.

2. The Department of Court Services shall conduct a custody and visitation evaluation, which shall include the issue of whether it is necessary to continue supervised visitation between the respondent and the parties' minor child, and which may include psychological evaluations of either/both parties if deemed necessary by Court Services, and shall provide a report to the Court and counsel by January 13, 1997. The parties, having been referred to the Department by appearing at all scheduled interviews

at the time designated and cooperating with the assigned evaluator. The parties shall follow the directions of the evaluator and complete all requested authorizations for release of information. If either of the parties is noncooperative, the investigator is to refer the matter back to the appointing Referee or Judge for such orders as may be necessary, including termination of the evaluation if that is warrented. The sanction of contempt for failure to comply with this order may also be available.

3. The issue of the respondent's responsibility to pay a fee to Court Services for the evalution is reserved and shall be considered at a subsequent hearing when the respondent's employer and income situation is known and disclosed. The petitioner's obligation to pay a fee for the evaluation is waived.

4. The respondent's motion to modify his child support obligation is reserved. The respondent and his attorney shall provide Hennepin County with notice of his request for suspension of his child support obligation, if possible, through the administrative process. If it is not possible to modify his support obligation through the administrative process, the respondent and his attorney may reschedule that issue before the undersigned Referee upon notice to the petitioner's attorney and Hennepin County.

5. Each party shall be responsible for any debt he/she incurred or incurs on or after September 23, 1995.

6. All other motions are denied.

7. Copies of this Order shall be mailed to counsel, who shall see that their clients are properly served.

Dated September 13, 1996.

THE FOREGOING FACTS WERE FOUND BY ME AFTER DUE HEARING AND THE FOREGOING ORDER THEREON IS RECOMMENDED.

"s Marybeth Dorn."
Referee Marybeth Dorn

FINDINGS OF FACT AND ORDER APPROVED AS OF DATE HEARD.

ORIGINAL SIGNED BY
Judge William R. Howard
Judge of District Court
Family Court Division

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT
COUNTY OF HENNEPIN
FAMILY DIVISION

Paula Marie Olson,
Petitioner,
vs.
Jeffrey Alan Olson,
Respondent.

ORDER
Court File No. DC216900

The above-entitled matter came duly on for hearing before the Honorable Marybeth Dorn on February 20, 1997.

APPEARANCES:

Gerald O. Williams, Jr., Esq., appeared for and on behalf of Petitioner.

Respondent appeared pro se.

Based upon the evidence adduced, the argument of counsel, and all of the files, records, and proceedings herein,

THE COURT FINDS:

1. The Department of Court Services completed a custody and visitation evaluation and recommends that the parties be granted joint legal custody of their son, Jake Tyler Olson, born March 22, 1995, that the petitioner be granted primary custody, that the respondent be required to participate in and complete a child development course, and that, pending completion of that course, he have visitation on alternating weekends

from 10:00 a.m. to 6:00 p.m. on Saturday and Sunday. At such time as the respondent completes a child development course, Court Services recommends that his visitation occur on alternating weekends from Saturday at 10:00 a.m. to Sunday at 6:00 p.m.

2. Court Services met with the parties and their son between October 1 and November 8, 1996.

3. The petitioner initiated a legal seperation proceeding in this state on or about November 9, 1995. On November 12, 1995, a telephone conference occurred between the undersigned Referee, the petitioner, her attorney, the respondent, his attorney and a judicial officer in the state of California. The respondent was residing in California at that time and was in the military service. The parties agreed that this Court would assume jurisdiction over the parties for the purpose of the petitioner's legal seperation proceeding. The parties further agreed that the petitioner would have temporary custody of Jake and that the respondent would have reasonable visitation, which was to be supervised by a person agreeable to both parties, commencing in May, 1996. The respondent agreed that this Court could assert personal jurisdiction over him for all matters arising out of the legal seperation proceeding.

4. Since December, 1995, there have been numerous hearings in this matter concerning financial, custodial and visitation issues.

5. The respondent now appears to contend that Minnesota does not ahve jurisdiction over the parties' marriage or the issue of custody because petitioner was not a resident of the State of Minnesota for at least 180 days prior to the commencement of the legal seperation

proceeding. Minnesota law does not require a person to be a resident of this state for 180 days before commencing a legal seperation proceeding.

6. All temporary orders issued in this proceeding to date have required the respondent's visitation with the parties' son to be supervised. The petitioner requests an order requiring the respondent's visitation to continue to be supervised, alleging concern, as she has in the past, about their child's well-being while with his father and now alleging a concern that the respondent may remove their child to the State of California.

7. The respondent has indicated an intent to proceed with some type of legal action, though it is unclear what action() may be. The petitioner is concerned that the respondent may remove their son to California and claim that she was abusing him. The respondent has made reports to police and/or Child Protection in the past regarding the petitioner's care of their child, but by Child Protection or any other individual or entity.

8. The petitioner, as she has in the past, continues to claim that the respondent was physically assaultive to her and her daughter from a prior relationship when they resided together. She also now claims that the respondent engaged in masterbation in the presence of the minor children and that he does not believe such behavior is inappropriate.

9. Though the notes contained in Court Services' file indicate that the petitioner raised many of the foregoing issues to the Court Services' worker, those issues are not addressed in Court Services' report.

10. The respondent does not believe that supervised visitation is necessary.

The respondent has refused to exercise visitation in the recent past and has not exercised visitation for at least two months. He has chosen to forego visitation, apparently, until or unless this Court determines that he may have unsupervised visitation. The respondent's failure to exercise visitation with his child has not served the child's interests.

11. Significant concerns have been raised about the respondent's psychological and emotional health and the respondent's most recent affidavit, which he provided to the undersigned Referee at the hearing of this matter, supports those concerns.

12. The petitioner requests an order requiring the respondent to submit to a psycholigical evaluation. The respondent should cooperate with an independent psychological evaluation, as the parties' mental health is an issue that the court must consider in making a determination of permanent custody and visitation.

13. The petitioner's attorney advised the undersigned Referee at the hearing of this matter that the petitioner now resides in the Twin Cities area and is employed.

14. The issues raised by the petitioner concerning the respondent's behavior during their marriage, including assaultive and controlling behavior, the tone of the respondent's most recent affidavit and the fact that the respondent has failed to exercise visitation with the parties' child for at least two months warrent the continuation of supervised visitation until this matter may be tried.

15. It is necessary that visitation be supervised by someone other than the parties' family members. Though the petitioner requests that a guardian ad litem be appointed to represent the child's interests, it does not appear necessary to appoint a guardian at this time.

Guardian Ad Litem Services, Inc. should, however, be used for purposes of supervised visitation.

16. The issue of attorney's fees should be considered upon final disposition of this proceeding.

IT IS ORDERED

1. The respondent shall have the right to supervised visitation with the parties' minor child on alternating weekends from 10:00 a.m. to 6:00 p.m. on Saturday and Sunday. Visatation shall be supervised by Guardian Ad Litem Services, Inc. or another entity or individual agreeable to the parties. The respondent shall be responsible for the cost of the supervisor.

2. The issue of attorney's fees is reserved.

3. The respondent shall submit to and cooperate with a psychological evaluation by an expert designated by the petitioner, provided that the petitioner assumes the cost of the evaluation.

4. Copies of this order shall be mailed to Petitioner's counsel, who shall that his client is properly served, and to the respondent at 380 Bert Street, P.O. Box 536, Lake Crystal, Mn. 56055.

THE FOREGOING FACTS WERE FOUND BY ME AFTER DUE HEARING AND THE FOREGOING ORDER THEREON IS RECOMMENDED.

"s Marybeth Dorn."
Referee Marybeth Dorn
Dated: February 26, 1997

FINDINGS OF FACT AND ORDER APPROVED AS OF DATE HEARD.

ORIGINAL SIGNED BY

Judge Diana S. Eagon
Judge of District Court
Family Court Division

STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT
COUNTY OF HENNEPIN
FAMILY COURT DIVISION

The above-captioned matter came on for hearing before the Honorable David M. Duffy in the Hennepin County Government Center, Courtroom 1357, Minneapolis, minnesota on May 1, 1997.

Mr Gerald Williams, Esq., appeared for and on behalf of Petitioner.

Respondent appeared Pro se.

Based upon arguments at hearing, all files, records, affidavits and proceedings herein, and being fully advised in the premises, the Court makes the following:

FINDINGS OF FACT:

1. On April 15, 1997, this Court ordered Respondent to submit to and cooperate with a psychological evaluation by Dr. James Gilbertson for the purposes of determining Respondent's fitness to have visitation with the parties' minor child.

2. This Court conferred with Dr. Gilbertson on May 1, 1997. Dr. Gilbertson recommends to the court that Respondent have supervised visitation with the parties' minor child in a natural setting. However, the history of supervised visitation is a troubled one, and therefore, supervised visitation will be supervised in a setting previously ordered by this Court on February 26,

1997. (See Conclusion of Law 1 below).

Order

1. Respondent shall have supervised visitation one day a week through Guardian Ad Litem Services, Inc, which is located in Newport, MN (telephone number: (612) 458-5060). The costs of the supervised visitation shall be paid by Respondent.

2. This matter is set for trial on May 27, 1997, 9:30 a.m., before the undersigned.

IT IS ORDERED.

May 1, 1997

"s David M. Duffy."

David M. Duffy

Judge of District Court

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of: Case No. DC216900
Paula Marie Olson, FINDINGS OF FACT,
Petitioner, CONCLUSIONS OF LAW
and ORDER FOR JUDGMENT,
Jeffrey Alan Olson, JUDGMENT AND DECREE
Respondent.

The above-entitled proceeding came on for a final hearing before The Honorable David M. Duffy, Judge of the above-named Court, at the Hennepin County Government Center, in the City of Minneapolis, County of Hennepin, State of Minnesota, commencing on May 27, 1997, continuing on May 28, 1997, and concluding on May 29, 1997.

Petitioner appeared in person and was represented by her attorney, Gerald O. Williams, Jr.; Respondent appeared in person, pro se.

The Court, having heard the testimony and having reviewed the evidence in this proceeding, and upon all the files, records and proceedings herein, and being duly advised in the premises, makes the

following:

FINDINGS OF FACT

I.

The true and correct name of Petitioner is Paula Marie Olson. She is 25 years of age, having been born on March 1, 1972. Petitioner resides in St. Louis Park, MN, but does not wish to and will not be compelled to disclose the street address where she resides. Prior to her marriage, she was known as Paula Marie Zamzow. Petitioner's Social Security number is 471-88-8833.

II.

The true and correct name of Respondent is Jeffrey Alan Olson. He is 27 years of age, having been born on December 1, 1969. Respondent resides at 380 West Bert Street, Lake Crystal, MN 56055. His address is 380 West Bert Street, Post Office Box 536, Lake Crystal, MN 56055. Respondent's Social Security number is 476-98-9345.

III.

Petitioner and Respondent were duly married on February 7, 1993, in Las Vegas, Nevada, and ever since that time have been and are now husband and wife.

IV.

Petitioner had not resided in Minnesota for 180 days preceding the commencement of this action in the alternative, for either a legal seperation or for dissolution of marriage. Thereafter in September, 1996, Respondent served Petitioner with his Answer and Counter-Petition for dissolution of the parties' marriage. Pursuant to that Counter-Petiton, this Court has jurisdiction over the parties' marriage.

V.

Respondent has throughout his life been a domiciliary of the State of Minnesota. He was born, raised, and attended secondary school in Minnesota.

Thereafter for a period of time he was a member of the Marine Corp and as a consequence left the state. Upon seperation from the military, he immediately resumed his residence in Minnesota. Because Respondent was a domiciliary of this state when this action was commenced, this Court has jurisdiction to dissolve this marriage. See Davidner v. Davidner, 304 Minn. 491, 232 N.W. 2d 5 (1975).

VI.

At a hearing before Referee Marybeth Dorn on December 12, 1995, Respondent's California attorney appeared by telephone for and on behalf of Respondent. A telephone conference was held on that date with Commissioner Dave Proulx, the California judicial officer assigned to the parties action then venued in California. Through its judicial representative, California declined to exercise jurisdiction over the parties' issues and, thereafter, the parties agreed that Minnesota would ultimately assume jurisdiction over the parties' dissolution. Because the California Court declined the exercise of jurisdiction over the parties' marriage and since at this time all statutory jurisdictional conditions are satisfied, this court may appropriately take jurisdiction in this action.

VII.

When this matter was commenced, Respondent was in the military service; he has since seperated from the Marine Corp. Respondent is not now entitled to relief under the Soldier's and Sailors Civil relief Act of 1940, as amended. Petitioner was not in the militaryservice of the United States of America at any time relevant to this proceeding.

VIII.

A seperate proceeding for dissolution, legal custody was commenced by Respondent

in California prior to the bringing of this action; thereafter, in November of 1995 prior to Petitioner being served with the Counter-Petition that commenced this dissolution, California declined jurisdiction over this matter. There presently is no such seperate proceeding pending here or elsewhere.

IX.

Pursuant to M.S.A. Sec. 518.06, as amended, there has been an irretrievable breakdown of the marriage relationship between the parties. The parties seperated in September of 1995.

X.

There has been born as issue of the parties' marriage one child. That child is in his minority and his welfare is affected by this proceeding: Jake Tyler Olson, born March 22,1995, age 2. In addition, Petitioner has custody of a minor child not of this relationship: Mallory Paige Zamzow, born April 12,1991, age 6. She receives child support for this child. Petitioner is not now pregnant.

XI.

The Parties' Custodial Preferences. Petitoner prefers to have sole physical custody of the minor child of this marriage. Respondent seeks to share joint physical custody with Petitioner.

XII.

While this matter was pending, the parties and their child participated in a custody evaluation by Lee H. Trestad of Hennepin County Department of Court Services. In addition, Respondent cooperated in a psychological assessment conducted by James H. Gilbertson, Ph.D. These two reports provide observations and expert opinions concerned the parties, their child, and the relationships to be considered in making a custody determination in this matter.

XIII.

The Reasonable Prefernces of The child. At age two, the minor child is clearly too young to express a reasonable preference as to his preferences relating to custody.

XIV.

The Primary CareTaker. Both before and since the parties' seperation in September of 1995, Petitioner has been the primary care taker for the minor child. At this point, the child cannot remember a time when his mother was not his primary caretaker. In considering the custodial arrangements for a two-year-old, this factor is a weighty one.

XV.

The Intimacy Of The Relationship Between Each Parent And The Child. Mr. Trelstad of Court Services found that the child benifited from the warmth and support provided by both of his parents. In addition he found that Respondent's absence from the child's life set limitations on the child's ability to respond to his father. For the most part, Respondent has chosen to forego visitation with the minor child since it would be supervised; his voluntary absence from the child's life undermines the intimacy that he and the child would otherwise enjoy.

XVI.

Interaction And Interrelationship Of The Child With His Parents. The parties each enjoy interaction with the child consistent with the party's individual style. Respondent tends to direct the activity and entertain the child. It is Petitioner's style to allow things to flow more freely and to respond to the child. The difference in the parties styles is likely the result of the disparate amount of time that the parties have had with the child. It is clear that both parents are committed to

interaction that will encourage the child's development. Having observed both parents with the child, it was Mr. Trelstad's opinion that Petitoner's more natural style was indicative of greater skill in parenting and was of the greatest benefit to the child. Respondent has attended a parenting class and is making a bona fide effort to develop further parenting skills.

XVII.

The Relationship Between Jake/Tyler And Mallory. The minor child's half-sister has been a stable and continuing factor in his life; the custody arrangements should not limit their relationship.

XVIII.

The Child's Adjustment To Home, School, And Community. The child is well adjusted to his home environment. At his age , participation in school and community are not a regular aspect of life.

XIX.

The Length Of Time That The Child Has Lived In A Stable, Satisfactory Environment and The Desirability Of Maintaining Continuity. The child has been moved around a great deal in his short life, both from state to state and from home to home. The stability that has been there for this child has been the presence of his mother and sister in his daily life. Petitioner has made substantial effort to create a home for her children wherever they currently reside. Petitioner has enjoyed the support of extended family. Respondent, likewise, has family that provide emotional support and assistance with the child.

XX.

Permanency, As A Family Unit, Of The Existing Or Proposed Custodial Home. Neither party is in a position superior to the other with respect to the prospect

of creating a permanent family unit. Respondent owns his own residence and is capable of providing a more stable physical environment; Petitioner, however, can provide the more stable emotional setting.

XXI.

The Mental And Physical Health Of The Minor Child. The minor child is healthy both physically and emotionally.

XXII.

The Mental And Physical Health Of the Parties. The parties are apparently physically healthy. Although there have been no allegations concerning chemical abuse, both parties have asserted that the other has problems with temper and self-control. Respondent was ordered to participate in a psychological assessment by Dr. Gilbertson. The quality of Dr. Gilbertson's report is limited by the limited cooperation of Respondent. The Court is convinced, however, that Respondent endeavored to cooperate to the best of his ability. Dr. Gilbertson opined, however, that Respondent was excessively defensive in his responses to the standardized personality inventory and that: (The style of his defensiveness is frequently seen in individuals who are self-rightous in view or manner, who have little psychological insight and who do not subject their own behavior to critical assessment or monitoring. Their psychological defenses are also seen as relatively brittle and such individuals may lack flexible coping strategies).

While Gilbertson preferred to make tentative observations from the results of Respondent's standardized testing, Gilbertson's own observations and those of the Court, as well as Petitioner's testimony, come together in a picture, consistent with the above quoted paragraph.

During the course of these proceedings, Respondent has exhibited behavior that was ostensibly threatening or at the very least demonstrated poor judgment. Dr. Gilbertson's offers the following opinion concerning Respondent's mental health: (I do not find evidence of a psychosis or thinking disorder in Mr. Olson. However, I do see him utilizing the projection, blame and externalization in an excessive fashion, while cloaking himself with moral righteousness, asserting patriotism, and viewing himself as morally more intact and right than others. This attitude, firmly held, creates 'tunnel vision'.

Respondent's testimony as to his mental health and ability to parent was excessively self-indulgent and consequently lacked credibility. He portrayed himself as super-human; for instance, he testified that he had no temper. As between these two parties, it is Petitioner who enjoys better mental health at this time.

XXIII.

The Capacity And Disposition Of The Parties To Provide The Child With Love, Affection, And Guidance To Continue Educating And Raising The Child In The Parties" Culture And Religion Or Creed. Both parties have an exceptional ability to bestow love and affection upon the minor child. While the Respondent has the potential to be an extremely devoted parent, his self-centered conceptions of morality and patriotism will serve as a impediment to jis providing the child with realistic insight into culture and values.

XXIV.

The Child's Cultural Background. The parties share a culture and comparable values. Respondent has emphasized that his heritage includes a piece that is American Indian and has expressed the

belief that Petitioner's family disapproves. Petitoner is an adult and as a parent she understands that the minor child will thrive by taking pride in all aspects of his heritage; nothing in record says that Petitoner is influenced by her family to the detriment of her parenting. The parties are both Lutheran; there is no disagreement concerning religious training.

XXV.

The Affect On The Child Of The Actions Of An Abuser. There are no formally documented instances of domestic abuse between the parties; Petitioner, however, has testified credibility with regard to abuse of her by Respondent, as well as to his threats of suicide. She recounted instances of him taunting through tickling his step daughter, Mallory. Petitioner fears Respondent.

XXVI.

The Disposition Of Each Parent To Encourage And Permit Frequent And Continuing Contact By The Other Parent With The Child. Respondent has intentionally and fraudulently sought the assistance of law enforcement and medical workers in a campaign to portray Petitioner as a child abuser. This dishonest behavior was calculated to gain an advantage in this custody dispute and to limit Petitioner's ability to parent the minor child.

XXVII.

The Ability Of The Parties To Cooperate In Rearing The Child. The parties lack the requisite ability to cooperate in the decision necessary to co-parent equally. Perhaps the most striking example of their lack of cooperation is the fact that Respondent calls the child "Jake" and Petitioner calls him "Tyler."

XXVIII.

Whether It Would Be Detrimental To The Child If One Or The Other Parent Had Sole Authority Over The Child's Upbringing. It would be of no detriment to the minor child if Petitioner is granted sole authority over his upbringing.

XXIX.

Respondent obviosly would prefer that his visitation be unsupervised. Petitioner has legitimate concerns about abandoning supervision given current circumstances. In his report issued two months prior to trial, Dr. Gilbertson recommended that supervised visitation be established initially, prior to working toward the natural relationship Mr. Olson should ultimately have with his child.

XXX.

At the first hearing in this matter, Respondent agreed that he would have supervised visitation with the minor child, commencing in May of 1996. Thereafter, he became opposed to supervised visitation. In a showing of stubborn immaturity on his part, Respondent has foregone visitation, since it was not on his own revised terms. Respondent's requirement for visitation is all-or-none, his-way-or-no-way proposition. Respondent's refusal of visitation serves only to intensify the apparent necessity for commencing with supervised visitation and moving on when that has created a satisfactory stable history. Respondent's absence from the child's life works only to estrange the child emotionally from Respondent, again reinforcing the requirement that initially visitation should be done in a setting that will establish the confidence of all concerned.

XXXI.

Respondent has demonstrated that he is unwilling or unable to proceed in a conservative fashion, establishing a relationship step-by-step consistent with

expert recommendations. The totality of Respondent's actions establish a substantial basis for concern that necessitates the Court's ordering supervised visitation to continue until Respondent has established a record reflecting mature and unselfish parenting. It is imperative that Respondent work toward reunification in a measured and temperate manner.

XXXII.

Respondent has used visitation as an opportunity to attempt to frame Petitioner with false allegations of child abuse, thereby creating an unpleasant rather than pleasant experience for the child. There is a particular need, under all of these circumstances, to make a new start on visitation, commencing with supervised visitation and thereafter moving step-by-step to a fuller relationship that Respondent will find satisfactory.

XXXIII.

At such time as Respondent is willing and able to cooperate, first in supervised visitation and thereafter with any restrictions consistent with the best interest of the minor child, he will have the opportunity to have a relationship with his son. When Respondent expresses the willingness to cooperate and place his child's best interest ahead of his own, a regular schedule of supervised visitation will be commenced.

XXXIV.

It is appropriate that a guardian ad litem be appointed to establish first regular supervised visitation and thereafter orchestrate a gradual move to a schedule of reasonable unsupervised visitation. The child requires an independent advocate to represent his best interests in this process and in further Court proceedings, should they be necessary. The guardian, appointed

herein, should be in a position to submit motions and be empowered so as to effectively represent the interest of the minor child.

XXXV.

It is clearly in the child's best interest that Petitioner be granted his sole legal and sole physical custody. Respondent should exercise the right to supervised visitation for the period of time necessary for him to establish a sound relationship with the child. He must demonstrate that he is capable of honest, courteous behavior and mature parenting; thereafter, Respondent will have reasonable unsupervised visitation, consistent with the best interest of the child.

XXXVI.

In light of the difficulties presented by Respondent's visitation with his own child, it is in the best interest of Petitioner's daughter, Mallory, that there be no visitation between her and Respondent.

XXXVII.

Petitioner is employed as a home health care assistant in a private home. She is compensated with free room and board for herself and the children. She has nominal income. Petitioner's expenses, together with those of the minor children, total $1295 per month.

XXXVIII.

Because Petitioner can care for the children while she performs the duties of her employment, she presently incurs no cost for child care related to her employment. Reimbursement for child care should be reserved.

XXXIX.

Respondent is employed as a mechanic by Mankato Oil and by Precision Press; both businesses are located in Mankato, Minnesota. By Order of Referee Dorn dated

March 11, 1996, child support was set at $395 per month. Neither party presented evidence that their financial circumstances had changed so as to render this level of payment unreasonable and unfair. Respondent will be obligated to pay this amount as monthly child support.

XL.

Respondent states that his net income is approximately $17,000 per year. After having met child support obligation, Respondent retains net income in excess of $1000 per month to meet his needs and satisfy debt. Respondent has not presented evidence of his reasonable and necessary monthly expenses, but is clear he is in financial circumstances that are far more sound than those of Petitioner. The Court finds that Respondent's reasonable and necessary expenses do not exceed $950 per month:

Mortgage- PITI	$400
Utilities	160
Food	180
Auto Expense	110
Misc.	100

Respondent has approximately $75 per month with which to satisfy other obligations, such as debt and attorney's fees. So as to give Respondent some economic relief while this debt is being satisfied and attorney's fees are paid, he will be granted the use of the tax exemption for the minor child for the years 1997 through 2000.

XLI.

Petitioner is unable to support herself at this time, but it does not appear that Respondent can support himself, meet his financial obligations to the minor child, and pay maintenance as well. This was a relatively short term marriage, during which the parties lived in a lifestyle which they could not afford and accumulated significant debt. Respondent does not have sufficient

financial resources to pay maintenance. In view of the parties disparate financial circumstances, however, it is appropriate that maintenance be denied to Petitioner and that Respondent pay marital debt and attorney's fees. Petitioner will not awarded spousal maintenance, nor will it be reserved.

XLII.

Respondent currently provides a family health plan through his employer that covers Petitioner, her daughter, and the parties minor child. For so long as he is able to provide this coverage, he should be ordered to do so.

XLIII.

The parties have an interest in one parcel of real estate. Subsequent to the parties' seperation, Respondent purchased a home in Lake Crystal, Minnesota. It is legally described as follows: Mari-Dean Subdivision Phase II, Lot 1, Block 1, Any marital interest Petitioner has in this property is inconsequential and therefore the property will be awarded to Respondent. The parties own no other real estate.

XLIV.

The parties are notified that income tax laws regarding the capital gains tax may apply to the sale of principle residence. This includes, but is not limited to, the exclusion available on the sale of a principle residence for those over a certain age under Section 121 of the Internal Revenue Code of 1986, or other applicable law. Unless otherwise specifically stated, the party who receives the principle residence is entitled to have the first choice in exercising this offset. The parties may wish to consult with an attorney concerning the applicable laws.

XLV.

When the parties seperated, Petitioner

took little property with her. Respondent retains most of the parties' household goods and furnishings. The parties agree that this property will be awarded as presently divided; this disproportionate award will be offset by Respondent's payment of the marital credit card debt. Included in the parties' personal property are a 1988 Ford Bronco and a 1991 Kawasaki Zephyr 550 CC. The vehicles are in Respondent's possession and will be awarded to him.

XLVI.

The parties have no pensions, IRAs, or retirement funds.

XLVII.

Petitioner's mother loaned the parties funds during their marriage to satisfy marital debt, including $13,000 in February of 1995. These funds were loaned and there was always an expectation that they would be repaid. The parties should be equally responsible for repayment of this debt.

XLVIII.

Petitioner's grandmother also loaned the parties money. Petitioner testified that there is written documentation of these loans, but none was presented to the Court. Petitioner will be responsible for satisfaction of this debt.

XLIX.

Respondent testified to credit card debt, but provided no proof of the debt or of payment; it is appropriate that Respondent be responsible for this debt, in light of the fact that he will receive the bulk of the marital assets.

L.

Petitioner has no resources or income with which to meet her attorney's fee in this matter. Although Respondent's financial circumstances are far from prosperous, he is in a position to assist Petitioner in meeting this obligation.

LI.

Petitioner seeks restoration of her maiden name; this request for a name change is not for the purpose of defrauding or misleading anyone.

LII.

The parties' marriage was short term and resulted in much debt and few assets. It is fair and equitable that Respondent receive a larger portion of those assets and that he be responsible for the debt that resulted in part from the acquision of those assets. Respondent, having made no proof that his current level of payment of child support is unreasonable and unfair, will be ordered to continue paying at that level. After meeting his reasonable and necessary expenses, servicing marital debt, and assisting Petitioner in meeting her attorney's fees, Respondent is without resource to pay spousal maintenance; spousal maintenance will be denied.

FROM THE FOREGOING FINDINGS OF FACT, the Court makes the following:

CONCLUSIONS OF LAW

1. Dissolution of Marriage: The bonds of matrimony existing between the parties are hereby dissolved.

2. Custody and Visitation: Petitioner is granted sole legal and sole physical custody of the minor children, namely: Jake Tyler Olson, born March 22,1995, age two. Respondent shall have the right to supervised visitation. The guardian shall have the right to supervised visitation. The guardian ad litem appointed herein will establish regular supervised visitation to be expanded, consistent with the best interest of the child so as to without unnecessary delay establish regular unsupervised visitation. Speedy progress toward this is conditioned upon the Respondent's unreserved cooperation, as well as upon the needs

of the minor child.

3. Appointment of the Guardian ad Litem: Pursuant to Minn. Stat. Sec. 518.165, Mary Catherine Lauhead is appointed guardian ad litem to the minor child of the parties. Her fee shall be paid by Hennepin County. She will serve without bond. Should there be further Court proceedings in this matter, the guardian ad litem shall function as a party in this proceeding, being entitled to bring motions, crioss-examinewitnesses, and shall have all the other powers necessary to fully represent the child. All pleadings and other court submissions, correspondence, and reports shall be served on the guradian ad litem. The guardian ad litem, shall supervise and moniter this case until such time as she is specifically relieved of the responsibility to do so by further order of the Court. The guardian ad litem's authority and responsibility shall include the obligation to:

a. Provide ongoing opportunities for the parties to meet with the guardian ad litem and communicate on concerns and to provide to her such information as is necessary for the guardian ad litem to provide her recommendations to the court;

b. Make a recommendation as to the rules and conditions of visitation and of participation by the parties in therapy and counseling;

c. Implement the terms of the Court's orders as they relate to visitation, treatment programs, counseling for the parties and the minor child, and any other matter as specifically ordered by the Court;

d. Monitor the counseling of the minor child and of the parties with the involved therapists and to be apprised of therapeutic concerns and progress of

the minor child and of the parties; and

e. If she determines that circumstances warrent the appointment of a visitation expeditor, to make recommendation and an ex parte motion to the Court for the appointment of said individual.

4. Guardian's Access to Information: The guardian ad litem shall have all right to any information she requests from teachers, counselors, as well as any other staff at the school attended by the minor child. The guardian ad litem shall have the right to inspect and recieve medical, counseling, and dental records, school records, and all other information, including but not limited to, all information maintained by previously involved agencies, therapists and counselors, such as the Hennepin County Department of Court Services - Domestic Relations Division, Hennepin County Department of Human Services, and Hennepin County Department of Child Protection. Information obtained from these agencies or persons concerning the minor child and the parties, as deemed necessary by the guardian or requested by her in her function as guardian, shall be provided to her for her review. Copies shall be provided upon her request, with photocopying charges to be waived by Hennepin County Agencies. Such records shall not be whited out, blocked out, cut out, or otherwise restricted.

5. Guardian's Access to Records: Reference to this Order shall serve to provide notice and to insure the necessary cooperation with the guardian ad litem in the disclosure or release of the requested information about the minor child to the custodians or the professionals holding these records. The parties, without requiring the guardian ad litem to obtain a release, shall be

deemed to have given approval for the guardian to review the relevent records. Each party shall identify to the guardian ad litem all experts, professionals, therapists, counselors and doctors who have examined the minor child or were consulted about the case since the commencement of this action.

6. Parties' Waiver of Privilege: Any privilege existing by and between the parties hereto, as well as any issue that may be raised under the Data Privacy Act, relating to the disclosure of any information relative to this cause of action on the issue of the parties respective parenting, emotional and psychological stability, is hereby waived as a result of having been put at issue in this litigation. The guardian ad litem shall have free access to all material relating to the parties and the minor child, whether the materials be written or otherwise.

7. Child Support: Commencing September 1, 1997 and continuing until the child reaches age 18, or if the child has not graduated from high school, then until graduation from high school, but not beyond age 20, on the first day of each month, as and for current child support, Respondent shall pay Petitioner, the sum of $395 per month to be paid in the same intervals as the Respondent's pay periods. The child support order herein is subject to cost-of-living adjustments. Respondent has a continuing duty, so long as his child support obligation continues, to inform Petitioner of any change of employer or address within ten days of such change. Respondent is on notice that if his income is substantially reduced, it is his responsibility to serve and file a motion to reduce or suspend the child support.

8. Arreages: If child support arreages now exist, said arreages shall not merge

with the Judgment and Decree herein.
9. Child Care Reimbursement: Child care reimbursement is reserved.
10. Spousal Maintenance: Neither party shall pay either temporary or permanent maintenance to the other.
11. Medical, Hospitalization and Dental Insurance for the Minor Children: Respondent shall maintain in full force and effect, for the benefit of the parties' minor child, any medical, hospitalization and dental insurance which is presently or becomes available to him through his employment. All uninsured medical or dental expense incurred on behalf of the parties' minor child will be divided with Petitioner paying 50% and Respondent paying 50%. The party incurring the unreimbursed expenses will be entitled to reimbursement from the other party within 30 day of submitting proof of expense to the other party. The party owing reimbursement shall make timely payment.
12. Appendix A: The attached Appendex A is incorporated and made a part of this Order or Judgment.
13. Automatic Withholding: Respondent child support payment ordered herein shall be by automatic withholding.
14. Health Insurance for Petitioner: Respondent shall continue coverage for Petitioner, so long as he is legally able to do so. Thereafter Petitioner shall be responsible to obtain and maintain her own insurance coverage. Respondent shall provide Petitioner with reasonable notice should the coverage terminate. Pursuant to Minn. Stat. 62A.21, subd. 2a, 62D.101, and the Consolidated Omniibus Reconciliation Act of 1985 (COBRA 1985), whichever applies, the Petitioner shall have the absolute right to continue her health benefits coverage available through the Respondent's insured employee health benefit plan. Petitioner shall be

obligated for the payment of the premium of such coverage.

15. Personal Property Awarded to Petitioner: Petitioner is awarded all right, title and interest, free and clear of any interest therein of Respondent, to all furniture, furnishings, household goods, sporting equipment, personal effects, jewelry, and tools presently in the name of or possession of Petitioner. Petitioner is awarded all right, title and interest, free and clear of any interest therein of Respondent, to all money, bank accounts, and life insurance, presently in the name of or in the possession of or owed to Petitioner.

16. Personal Property Awarded to Respondent: Respondent is awarded all right, title and interest, free and clear of any interest therein of Petitioner, to all furniture, furnishings,household goods, sporting equipment, personal effects, jewelry, and tools presently in the name of or possession of Petitioner. Respondent is awarded all right, title and interest, free and clear of any interest therein of Petitioner, to all money, bank accounts, and life insurance, presently in the name of or in the possession of or owed to Respondent. Respondent is specifically awarded the 1988 Ford Bronco and a 1991 Kawasaki Zephyr 550 CC, subject to any encumbrance thereon. He shall indemnify and hold Petitioner harmless from any liability or obligation to make any payment whatsoever regarding said vehicles.

17. Respondent's Residence: Respondent is awarded all right, title, and interest in and to the real property, located at Lake Crystal, Minnesota and legally described as follows:

Mari-Dean Subdivision Phase II, Lot 1, Block 1,

Respondent shall be solely liable for

normal maintenance and monthly payments of principle, interest, taxes and insurance on said property, and he shall indemnify and hold Petitioner harmless from any liability or obligation to make any payment whatsoever regarding said homestead. Immediately upon entry of the Judgment and Decree herein, Petitioner shall execute a Quit Claim Deed conveying her interest in the homestead to Petitioner. However, if Respondent does not execute proper instruments, then said Judgment and Decree shall operate as a conveyance to Respondent in accordance herewith.

18. The Use of the Child as a Tax Exemptions in Future Years: So long as Respondent is current in making his payments of child support, Respondent shall have the right to claim the minor child on his tax returns for the years 1997, 1998, 1999, and 2000. Thereafter, Petitioner will have the exemption in the odd-numbered years and Respondent in the even-numbered years. The parties shall execute the documents or waivers necessary to effectuate this provision. This provision, granting the child support exemption to Respondent, is granted to Respondent to enable him to meet his child support obligation while satisfying marital debt and assisting Petitioner with payment of her attorney's fees; as such it is subject to modification should there be a change in the parties' circumstances.

19. Individual Debt: Petitoner shall assume and pay the outstanding debt owed to her grandmother and shall indemnify and hold Respondent harmless for any obligation to make payment Thereon. Respondent shall assume and pay the outstanding credit joint card debt and shall indemnify and hold Petitioner harmless for any obligation to make payment thereon. Each party shall be obligated

to make payments of $6500, totaling $13,000, in satisfaction of the marital debt to Petitioner's mother. If Respondent's debt is not paid in full within five years, Petitioner's mother shall be entitled to a judgment for the outstanding amount.

21. Life Insurance: So long as Respondent is obligated to pay child support he shall maintain any now existing life insurance policy or any policy that is available to him though his employment for the benefit of the minor child, naming Petitioner as the beneficiary of said policy or policies. Should Respondent fail to fulfill this obligation, Petitioner shall have a claim against his estate in the amount of his projected child support obligation.

22. Attorney Fees and Costs: Respondent shall pay Petitioner's attorney, Gerald Williams, the sum of $4,000. With this exception, the parties are responsible for their own costs and attorney's fees incurred in this matter. Respondent shall make monthly payments of not less than $40 per month. If the said $4,000 is not paid in full within two years of the date of entry of the Judgment and Decree, the balance will commence accruing interest at the rate of 5% per year. Should Respondent fail to make monthly payment as ordered herein, Mr. Williams will be entitled to a judgment on the unpaid balance.

23. Signing Documents: Each of the parties is to sign whatever documents are necessary to transfer title of the assets as divided herein, and is to do so immediately upon entry of the Judgment and Decree.

24. Release of Attorneys: Ninety-one (91) days after service of the Judgment and Decree, Gerald Williams, is released from continued representation of the

Petitioner in this proceeding, unless either of the parties commences a subsequent proceeding to amend the Decree or file an appeal of the trial court's decision, in which case representation is to continue until the appellate process is complete or the time for appeal expires or a party dismisses the services of an attorney, or the attorney otherwise withdraws, whichever occurs first.

25. Service of Process: Service of a copy of the Judgment and Decree upon the attorney for Petitioner or upon Respondent, Pro se, by the attorney of the other party or by Respondent, by United States mail constitutes due and proper service of the Judgment and Decree upon them and proof thereof for all purposes.

26. Undisclosed Assets or Debts: In the event there exist undisclosed marital assets or undisclosed marital indebtedness, this Court retains the jurisdiction to make an equitable distribution thereof.

27. Petitioner's Name: Petitioner's maiden name, Paula Maie Zamzow, is restored to her.

28. Restraining Order: The parties are restrained from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties. Violationof any portion of this paragraph shall be a misdeanor punishable by imprisonment up to 90 days, or $700.00 file, or both.

ORDER FOR JUDGMENT

Let judgment be entered accordingly.

Dated: Aug. 28 1997, 1997.

By The Court:

"sDavid M. Duffy"

David M. Duffy Judge of District Court
Family Court Division

I certify that the above Conclusions of Law constitute the Judgment and Decree of the Court.

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

Paula Marie Olson,
Petitioner,

ORDER FOR SUPERVISED VISITATION

and
Jeffrey Alan Olson,
Respondent Court File No. DC 216900

The above-entitled matter came on before the Honorable David M. Duffy, Judge of District Court, upon the application of the guardian ad litem, Mary Catherine Lauhead, pursuant to her authority as established in Paragraph 2 of the Judgment and Decree entered herein on September 11,1997. Notice of such ex parte application was properly provided to counsel, with no objections raised to the court opposing entry of the order.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. The Department of Court Services is directed to establish supervised visitation between respondent and the minor child with one of the contracting agencies.

2. The parties shall follow directions of the supervisors and complete all requested authorizations for release of information.

3. If either of the parties is non-cooperative, the agency is to refer the matter back to the appointing Referee or Judge for such orders as may be necessary.

4. The sanctions of Contempt against any non-complaint party for failure to comply with a proper Court Order may be available.

5. The Clerk of this court shall mail a copy of this Order to the attorneys of record of the parties and the guardian ad litem as proper service for all purposes. Each attorney shall personally

serve a copy of this order upon his/her client and provide an affidavit of such personal service to the court.

6. The Clerk of this court shall mail a copy of this Order to the Department of Court Services for implementation of its terms.

Dated: October 2, 1997.

"sDavid M. Duffy
David M. Duffy
Judge of District Court
Family Court Division

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

In Re the Marriage of:
Paula Marie Olson,
N/k/a Paula Marie Zamzow, ORDER
Petitioner,
and Court File No. DC 216900
Jeffrey Alan Olson,
Respondent,

The above-entitled matter came duly on for hearing before Judge David M. Duffy on July 1, 1998.

APPEARANCES:

Gerald O. Williams, Jr., Esq., appeared for Petitioner Paula Marie Olson, n/k/a Paula Marie Zamzow.

Jeffrey Alan Olson appeared pro se.

Mary C. Lauhead, Esq., appeared as guardian ad litem.

Based upon the evidence adduced, the argument of counsel, and all of the files, records, and proceedings herein,

THE COURT FINDS:

1. These were post-divorce decree motions.
2. Procedural history of this case.
   a. This has a long and troubled history.
   b. The petition for dissolution was filed on 10-13-95.
   c. There was credible evidence that

Respondent abused Petitioner during their marriage.

d. Respondent was granted supervised visitation. He chose to forego supervised visitation until the Court would determine that he may have unsupervised visitation.

e. Since December 1995, there have been numerous hearings in this matter, concerning financial, custodial, and visitation issues. Hearings and trial dates are listed below:

(1) 12-12-96, Dorn, Hearing.
(2) 3-4-96, Dorn, hearing.
(3) 9-9-96, Dorn, hearing.
(4) 2-20-97, Dorn, hearing.
(5) 2-27-97, Dorn, hearing.
(6) 4-10-97, Duffy, hearing.
(7) 5-1-97, Duffy, hearing.
(8) 5-27-97, Duffy, trial session.
(9) 5-29-97, Duffy, trial session.
(10) 5-29-97, Duffy, trial session.
(11) 7-1-98, Duffy, Hearing.

f. Respondent has filed numerous papers with this court during the pendency of this matter. The following is a list of these papers, along with a sketch of Respondent's various requests and claims:

(1) Respondent's letter to Opposing Counsel, dated 1-2-97.

(a) Proposing a "cool down period" where no visitation shall take place.

(b) Claims Petitioner's mother has had "multiple accidents, speeding tickets..."

(c) "[T]his case is soon to enter in[] to the media spot light."

(d) There is "racial prejudice now in this case..."

(2) Respondent's Affidavit, dated 12-5-97.

(a) "I believe there have been various manipulations of Penal Codes and Rules of Proceedings twisted in this case to gain jurisdiction...in the state of Minnesota.

(b) Petitioner's application for a California driver's license "nullifies jurisdiction [in Minnesota]."

(c) The Constitution and laws protect servicemen from finding jurisdiction and having to defend a case in another state.

(d) There is "racial hatred" in this case.

(e) "We[']re just waiting [for this case] to be brought to federal court and challenged..."

(f) Respondent claims he is a much decorated war hero.

(g) Respondent is requesting "three hundred a[nd[fifty thousand dollars in damages in an out of court settlement..."

(h) Respondent is "requesting an investigation into the ethics violations of Petitioner['[s coun[sel] and Petitioner[']s sister Suzy Zamzow, who is the underlying perpetrator of these felony acts."

(i) "I pray for a quick and easy settlement, before they make movies and write books about this case."

(j) Respondent discussed his ethnic background and religion (two pages).

(k) Respondent discussed family problems in Petitioner's extended family (one and one-half pages).

(l) The State of Minnesota "establish[ed] gender bias, race bias."

(m) This case is "a violation of my constitutional rights to be discriminated in this court room."

(n) The Minnesota courts "hate Indians."

(o) Respondent will take this case to "the federal court."

(4) Respondent's "Amended Responsive Notice of Motion and Motion," 4-3-97.

(a) Move case "to an unbiased forum that being the U.S. Supreme Court."

(b) Disciplinary action against

Petitioner for her not allowing visitation.

(c) An order addressing Respondent's "loss of career."

(d) That the "Court of Fraud" establish residency.

(e) An order "granting the Petitioner one year in the county jail."

(f) Ethics violations of Petitioner's attorney:

(1) For processing fraudulant claims to gain jurisdiction in this court.

(2) For "directly putting the security of the United States of America at risk."

(3) For "establishing a case in which Stare Decisis could be used to follow."

(4) For "defrauding the United States Marines of an overqualified individual" "who had set himself apart in becoming a United States Marine." All of the years of training Respondent wwere "laid to waste" because Petitioner sought jurisdiction in this Court.

(g) Revoke Petitioner's sisters attorneys license.

(h) Impose fine on Petitioner's attorney.

(i) Place Petitioner's attorney in jail for one year.

(j) Impose fine on Petitioner for obtaining jurisdiction in this Court.

(k) Impose fines on Petitioner's family members for helping and housing Petitioner.

(l) An order granting Respondentdissolution "in view of Due Process."

(m) An order granting the "media" the right to review all files relating to this case, and to be presented for "every court session."

(n) An order granting Respondent's attorneys the right to make copies of everything in the case file "for process

in Federal Court."

(o) An order "granting peaceful demonstrations at the court house and at the state capital in Minnesota."

(p) An order "clarifying who the responsible judge is...for the United States Senate Committee so administrative action can be taken..."

(q) An order declaring "all services run by the state involving...supervised visitation are biased and unconstitutional.

(r) That the employees running these state services "are predominantly divorced, seperated, or gender biased."

(s) That for the state agencies providing supervised visitation "servises to receive state or federal money [they] must employ at least fifty percent male employee[]s...TITLE VII (CIVIL RIGHTS ACT OF 1964)."

(t) An act to enforce the Constitutional right to prevent discrimination on Equal Employment Opportunity, and for other purposes."

(u) "For an Order declaring these services biased until at which time they employ fifty percent male, and should receive no funding until that time."

(v) For an Order declaring Arbitration Court unconstitutional...Is set out to be corrupted by attorneys not acting under any restraints or loyalty to the Constitution of the United States."

(w) That it was "organized legal crime" for an attorney to write a check to a Referee.

(x) "For an Order opening this case up to the Attorney General of Minnesota for possible settlement."

(y) "For an Order addressing the violation of Respondent[']s Miranda Rights."

(z) That this motion is based "upon the law of the State of Minnesota, the United States Constitution, and

Congressional laws governing the protection of servicemen."

(aa) Respondent recited Articles IIIand IV, and Amendments IV and VII, of the U.S. Constitution.

(bb) Respondent recited portions of "Marbury v. Madison."

(cc) Respondent recited something called, "The Court[']s Docket And Screening Cases."

(dd) Respondent recited portions of "Mcgrain v. Daugherty."

(ee) Respondent recited portions of "McColloch v. Maryland."

(ff) Respondent claimed, "This, then, is not a case of confidence, and we must consider it as it really is? A fraud!"

(gg) Respondent recited "Minn. Stat. 518.177, Notification Regarding Deprivation Of Parental Rights Law."

(hh) "[Lack of caring whether the child sees its father] will not look favorable in the law suit against Minnesota."

(ii) "[The amount of time this case has taken, and the paper work involved,] is totally sad in view of e[]thics, moral judgment, lack of involvement by the court..."

(jj) "We hope to [] help you in any way we can with this problem so you can catch back up with the rest of the union there in Minnesota."

3. In an Order by this Court, dated 4-15-97, regarding a hearing held on 4-20-97, Respondent had moved this Court for the following:

(1) Review by U.S. Supreme Court.

(2) That Petitioner be incarcerated for one year.

(3) That Petitioner's attorney be incarcerated for one year and that his license to practice law be revoked.

(4) That this Court issue an order

stating that the arbitration court is totally biased to favor the mother in all cases.

(5) That this Court lacked jurisdiction to hear the matter.

(6) This Court found:

(a) That Respondent was very angry, confused, problematic, and did not have a working knowledge of the legal system or precedent.

(b) That Respondent's ideas and demands resemble that of a posse comitatus.

4. The dissolution resulted in a three-day trial--on May 27, 28, 29, 1997.

5. Respondent contacted this Court's chambers on numerous occasions during the pendency of this matter.

6. This Court has consumed a great deal of time in reading Respondent's papers and motions, and in answering Respondent's telephone calls.

7. Respondent filed the following documents for this motion hearing:

a. "Conclusion," dated 11-24-97.

b. "Affidavit of Jeffrey Olson," dated 2-10-98.

c. "Declaration Statement," dated 3-2-98.

d. "Motion and Motion for Change of Custody," dated 3-9-98.

e. "Notice of Motion," dated 3-14-98.

f. "Affidavit," dated 3-21-98.

g. "Affidavit," dated 3-31-98.

h. "Propsal for Settlement," dated 4-20-98.

i. "Motion,"dated 6-9-98.

j. "Expedited Motion and Motion for Order," dated 6-9-98.

k. "Motion and Order Compelling Production of Documents and Imposing Sanctions," 6-12-98.

l. "Motion and Order for Seperate Trials Severance of Action," dated 6-24-98.

m. "Affidavit of Motion for Seperate Trials Severance of Action," dated 6-24-

98.

n. "Affidavit,"dated 6-24-98.

o. "Motion for Sanctions in Discrimination Case," dated 6-24-98.

p. "Motion for Order Compelling Production of Documents and Imposing Sanctions," dated 6-24-98.

q. "Motion for Expenses, Affidavits Made in bad faith," dated 6-24-98.

r. "Memorandum of Law," dated 6-24-98.

s. "Response to Affidavit of Petitioner," dated 6-24-98.

t. "Proposed Order Granting Motion for Expenses--Affidavits Made in Bad Faith," undated.

u. "Order Compelling Production of Documents and Imposing Sanctions," undated.

v. "Memorandum of Law for Change of Custody," unsigned and undated.

W. "Order," undated.

8. Within the above documents, Respondent requested the following:

a. Production of documents (but did not list documents demanded).

b. Answers to interrogatories (but did not list what interrogatories).

c. Terminate Respondent's obligation to pay Petitioner's attorney's fees.

d. Terminate Respondents obligation to pay a debt of $6,000 owed to Petitioner's mother.

e. "Holding" of all child support and benefits.

f. Change of Custody.

g. Disallow petitioner from using the following defenses:

(1) Petitioner not properly served.

(2) Petitioner did not have adequate time to respond.

(3) Petitioner did not acquire counsel.

(4) Petitioner did not respond on ground of privilege.

(5) Petitioner could not respond because she was not contacted.

h. Enter judgment by default for a change of custody.

i. Change visitation from supervised to unsupervised.

j. Respondent is willing to settle on $200,000 binding any further matters beyond the June 23, 1998 hearing on custody.

k. If Petitioner fails to show on hearing date, Respondent will request:

(1) That Court will issue arrest warrents.

(2) That Court suspend license to practice medicine on Ms. Judy Zamzow.

(3) That Court suspend license to practice law on Ms. Susan Zamzow.

(4) That Court suspend license to teach on Ms. Elizabeth Zamzow.

(5) A court order suspending Mr. Steve Zamzow from working in any banking system.

9. Within the above documents, Respondent made the following claims:

a. Petitioner left state without permission.

b. Parental kidnapping.

c. Respondent has received no visitation since trial in May 1997.

d. Petitioner is not complying with order for visitation.

e. Petitioner is obstructing Respondent's right to see his child.

10. Respondent's motion papers for this hearing, and for earlier hearings, are redundant, and make many incredible and unsubstantiated legal claims.

11. Respondent's intent in filing the above-described motion papers was to harass Petitioner and to burden this Court.

12. Petitioner's responsive motion, dated 6-17-98 requested the following:

a. Deny Respondent's motion for a change of custody.

b. Award Petitioner attorney's fees.

c. Require Petitioner to show cause

before filing any subsequent motions pertaining to this case.

13. Respondent has failed to make a prima facia showing that grounds exist for a change of custody under the Nice-Peterson doctrine. Nice-Peterson v. Nice-Peterson, 310 N.W. 2d 471 (Minn.1981). Specifacally, Respondent has failed to show that a significant change of circumstances has occurred since the Amended Judgment and Decree was filed on October 6, 1997, or that a change of circumstances endangers the child's physical or emotional health.

14. Under Rule 11 of the Minnesota Rules of Civil Procedure, Parties may not present motions or other papers to the Court if they are "interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation." If a Court finds that a party has violated Rule 11, the Court may impose on the party "an appropriate sanction," insluding reasonable attorney's fees.

15. Respondent's motions and papers are frivolous and repetitious, and were filed for the purpose of harrassing Petitioner.

16. Respondent's motions and papers were intended to cause the Petitioner to incur unnecessary attorney's fees and trouble.

17. Respondent's frivolous motions and papers caused the Court to consume a significant amount of its resources unnecessarily.

18. Under the Amended Judgment and Decree, filed on October 6, 1997, a guardian ad litem was appointed and Respondent was granted supervised visitation. Supervised visitation was to be established by the Hennepin County Department of Court Services. Unsupervised visitation was to be granted only if Respondent cooperated and "demonstrate[d] that he is capable of honest,courteous behavior and mature parenting."

19. Respondent has not cooperated with the agency supervising visitation.
20. Respondent has not exercised his right to supervised visitation and has not attempted to maintain a relationship with the parties' minor child.
21. Respondent's actions and lack of cooperation with Family Court Services show he is not ready for supervised or unsupervised visitation with the parties' minor child.
22. Petitioner's reasonable costs and attorney's fees in this matter are $2,397.70. That but for Respondent's frivolous motions to this Court, Petitioner would not have incurred these costs and attorney's fees.
23. As the procedural history of this case described above shows, this Court has been more than patient with Respondent's numerous and duplicative motions and papers, and with his many incredible legal theories and claims. This procedural history also shows that Respondent has been given his "day in Court" through numerous hearings and a three day court trial.

IT IS ORDERED:

1. That each and every motion of the Respondent, listed in the documents contained in Finding Number Seven, and desribed in Findings Numbered Eight and Nine, above, including a motion for a change of custody, is denied.
2. That Respondent shall bring no further motions before this court except by first appearing before the Chief Judge of Hennepin County District Court to establish probable cause for the relief requested. this sanction is justified because of Respondent's numerous and duplicative motions and papers, and because of his many incredible legal theories and claims--none of which have been found by this Court to have any merit.

3. That Respondent's visitation with the parties' minor child Jake Tyler Olson is suspended pending further Court Order.
4. That Respondent may obtain an Order for resumed visitation by cooperating with the professionals involved (namely, the guardian ad litem, Court Services), and providing affirmative evidence of his cooperation to the Chief Judge of Hennepin County District Court.
5. That the parties shall comply with Rule 108 of the Mionnesota General Rules of Practice for District Courts (regarding service of papers upon the guardian ad litem), and shall notify the guardian ad litem of their current addresses, and any subsequent change of address.
6. That Respondent shall not harass Petitioner, Members of Petitioner's family, Petitioner's attorney, individuals at Petitioner's law firm, the Court, the Court's staff, the guardian ad litem, individuals at Court Services, or individuals at any visitation agency to which Respondent is referred.
7. That Petitioner is awarded attorney's fees in the amount of $2,398.70.
8. That if Respondent fails to pay these attorney's fees within sixty days of this Order, Petitioner shall have and recover judgment against Respondent in the amount of $2,397.70.
9. That this Order was issued by the Court verbally, and is immediately binding.
10. That all previous Orders of this Court remain in full force and effect.

Dated: 7-29-98.

BY THE COURT:

"sDavid M. Duffy
David M. Duffy
Judge of District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson,

Plaintiff,

Civ. No. 98-2562/RHK/JMM

v. ORDER

State of Minnesota;
Kissoon, Clugg, Linder
& Ditberner, Ltd.,
Defendants.

Jeffrey Alan Olson,Lake Crystal, Minnesota for Plaintiff.
Peter M. Ackerberg, Assistant Attorney General, St. Paul, Minnesota, for Defendant State of Minnesota.
Gerald O. Williams Jr., Kissoon, Clugg, Linder & Dittberner, Edina, Minnesota, for Defendant Kissoon, Clugg, Linder & Dittberner, Ltd.

Before the Court are the Defendants' Motions to Dismiss. After thorough reading of the Plaintiff's Complaint, and upon all files, records, and proceedings herein, the Court, sua sponte, determines that the Complaint fails to state a claim against either Defendant upon which relief can be granted. See Fed. R. Civ. P. 12 (b) (6). Accordingly, **IT IS ORDERED THAT THE Plaintiff's Complaint)Doc.No.1) is DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

February 22,1999 "sRichard H. Kyle
Richard H. Kyle
United States District Judge
Filed Feb 22, 1999
Francis E. Dosal, Clerk
Judgment Entd. Feb 22, 1999
Deputy Clerk "s"

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson,
Plaintiff,

v. Civ. No. 98-2562/RHK/
ORDER

State of Minnesota and Kissoon, Clugg, Linder & Dittberner, Ltd.,
Defendants.

Jeffrey Alan Olson, pro se, Lake Crystal, Minnesota, for Plaintiff.
Peter M. Ackerburg, Assistant Attorney General, St. Paul, Minnesota, for Defendant State of Minnesota.
Gerald O. Williams Jr., Kissoon, Clugg, Linder & Dittberner, Edina, Minnesota, for Defendant Kissoon, Clugg, Linder & Dittberner,Ltd.

Before the Court is Jeffrey Alan Olson's ("Olson") Motion for Enlargement of Time (Doc. No. 15). Olson moves this Court to extend the time by which he must file his notice of appeal from its February 22, 1999 Memorandum Opinion and Order from 30 to 180 days. Federal Rule of Appellate Procedure 4(a)(5) provides that a district court "may extend the time to file a notice of appeal if: (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and (ii) that party shows excusable neglect or good cause." While Olson has moved for an extention of time within 30 days after the time prescribed by Rule4(a), he has failed to show excusable neglect or good cause. Olson argues that the Court should grant his Motion "for reasons of intent to refile motions in the lower court of Hennepin county" and give the Defendants an opportunity to settle the instant case. The Court finds that neither reason constitutes excusable neglect or good cause and, therefore, will deny Olson's Motion for Enlargement of Time.

For the foregoing reasons, and based upon all of the files, records, and proceedings herein, IT IS ORDERED THAT Olson's Motion for Enlargement of Time (Doc. No. 15) is **DENIED.**

April 15,1999 "sRichard H. Kyle
RICHARD H. KYLE
United States District Judge

April 15, 1999 "s Richard H. Kyle
RICHARD H. KYLE
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson,
Plaintiff,

Civ. No. 98-2562/RHK/JMM

v.

ORDER

State of Minnesota;
Kissoon, Clugg, Linder
& Ditberner, Ltd.,
Defendants.

Jeffrey Alan Olson, Lake Crystal, Minnesota for Plaintiff.
Peter M. Ackerberg, Assistant Attorney General, St. Paul, Minnesota, for Defendant State of Minnesota.
Gerald O. Williams Jr., Kissoon, Clugg, Linder & Dittberner, Edina, Minnesota, for Defendant Kissoon, Clugg, Linder & Dittberner, Ltd.

Before the Court are the Defendants' Motions to Dismiss. After thorough reading of the Plaintiff's Complaint, and upon all files, records, and proceedings herein, the Court, sua sponte, determines that the Complaint fails to state a claim against either Defendant upon which relief can be granted. See Fed. R. Civ. P. 12 (b) (6). Accordingly, **IT IS ORDERED** THAT THE Plaintiff's Complaint)Doc.No.1) is **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

February 22,1999
"sRichard H. Kyle
Richard H. Kyle
United States District Judge
Filed Feb 22, 1999
Francis E. Dosal, Clerk

Judgment Entd. Feb 22, 1999
Deputy Clerk "s"

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson,
Plaintiff,

v. Civ. No. 98-2562/RHK/
ORDER

State of Minnesota and Kissoon, Clugg, Linder & Dittberner, Ltd.,
Defendants.

Jeffrey Alan Olson, pro se, Lake Crystal, Minnesota, for Plaintiff.
Peter M. Ackerburg, Assistant Attorney General, St. Paul, Minnesota, for Defendant State of Minnesota.
Gerald O. Williams Jr., Kissoon, Clugg, Linder & Dittberner,
Edina, Minnesota, for Defendant Kissoon, Clugg, Linder & Dittberner,Ltd.

Before the Court is Jeffrey Alan Olson's ("Olson") Motion for Enlargement of Time (Doc. No. 15). Olson moves this Court to extend the time by which he must file his notice of appeal from its February 22, 1999 Memorandum Opinion and Order from 30 to 180 days. Federal Rule of Appellate Procedure 4(a)(5) provides that a district court "may extend the time to file a notice of appeal if: (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and (ii) that party shows excusable neglect or good cause." While Olson has moved for an extention of time within 30 days after the time prescribed by Rule4(a), he has failed to show excusable neglect or good cause. Olson argues that the Court should grant his Motion "for reasons of intent to refile motions in the lower

court of Hennepin county" and give the Defendants an opportunity to settle the instant case. The Court finds that neither reason constitutes excusable neglect or good cause and, therefore, will deny Olson's Motion for Enlargement of Time.

For the foregoing reasons, and based upon all of the files, records, and proceedings herein, IT IS ORDERED THAT Olson's Motion for Enlargement of Time (Doc. No. 15) is **DENIED.**

April 15,1999 "sRichard H. Kyle
RICHARD H. KYLE
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson (PAM/JGL)
Plaintiff,
V.
State of Minnesota;
David M. Duffy:
Diana S. Eagon;
Marybeth Dorn;
Mary Catherine Lauhead; and
Kissoon, Clugg, Linder & Ditberner Ltd
Defendants.

Civ. File No.99-1360

MEMORANDUM AND ORDER

This matter is before the Court on Defendants' Motion to Dismiss for lack of subject matter jurisdiction pursuant to Rule 12 (b) (1) of the Federal Rules of Civil Procedure. For the reasons set forth below, the Defendants' Motion is granted and Plaintiff's Complaint is dismissed with prejudice.

DISCUSSION

Plaintiff Jeffrey Alan Olson bases his pro se Complaint on federal question jurisdiction under 28 U.S.C & 1331, citing as a cause of action "Statutory [sic] Law on Dissolution?Seperation [sic] Jurisdiction: California to Minnesota." The Complaint includes five counts that,

as far as the Court can discern, can be summarized as follows. Count I alleges lack of jursidiction by the Minnesota state court that ruled upon the Plaintiff's marital dissolution, child custody, and visitation rights. Count II alleges that Plaintiff was treated unfairly in the Minnesota dissolution, custody, and visitation hearings because the Plaintiff acted as his own attorney in those proceedings. Count III alleges that Plaintiff's visitation with his son and stepdaughter was improperly denied by the Minnesota state court. Count IV alleges that Plaintiff's career was damaged by the Minnesota court improperly taking jurisdiction over Plaintiff's dissolution, custody, and visitation matters. Count V alleges that the Minnesota court improperly refused to grant Plaintiff a continuance in one of the state court dissolution, custody, and visitation proceedings, and that a result of such refusal, Plaintiff lost his career in the United States Marine Corps.

The Court first determines whether subject matter jurisdiction exists. See Fed. R. Civ. P. 12(h)(3). "Federal courts are courts of limited jurisdiction. They posses only that power authorized by Constitution and Statute,...which is not to be expanded by judicial decree...It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction." Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375, 377 (1994) (citation omitted). Plaintiff admits that no diversity of citizenship jurisdiction exists because both Plaintiff and Defendants are citizens of the state of Minnesota. See 28 U.S.C. & 1332. Instead, Plaintiff bases his Complaint on federal question jurisdiction. However, that

the "whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the states, and not to the laws of the United States." In re Burrus, 136 U.S. 586, 593 (1890). The Plaintiff has thus failed to expressly plead any claim within the Court's subject matter jurisdiction. However, the Court will examine whether the pro se Plaintiff has a possible claim within this Court's jurisdiction under 42 U.S.C. & 1983 based on alleged violations of due process guaranteed by the Fourteenth Amendment.

Plaintiff's putative due process claim against Kissoon, Clugg, Linder & Dittberner fails because the Complaint does not establish any facts sufficient to indicate any state action by that Defendant. See Brown V. Delmuro, No. 98-1819, 1998 WL 547864, *1 (8th Cir. Aug. 28, 1998) (unpublished opinion) (noting that opposing counsel was not a state actor); Johnson v. Outboard Marine Corp., 172 F.3d 531, 536 (8th Cir. 1999) (noting that private actors may only incur Section 1983 liability if the plaintiff establishes a meeting of the minds between the private and state actors). Plaintiff's claim against the State of Minnesota is barred by the Eleventh Amendment. See Seminole Tribe of Florida v. Florida, 517 U.S. 44,54 (1996) (noting that no federal jurisdiction exists for suits against unconsenting states). Plaintiff's putitive due process claim against the remaining Defendants (several judges and a guardian ad litem) fails because such Defendants are entitled to either judicial or quasi-judicial immunity. See Delmuro, 1998 WL 547864, at *1 (finding that family court judges and guardian ad litem were entitled to absolute judicial immunity and quasijudicial immunity, respectively, for acts during divorce

and child custody proceedings). Accordingly, the Court finds that Plaintiff's Complaint fails to state a claim within the Court's jurisdiction upon which relief can be granted. See Fed. R. Civ. P. 12(b)(1), 12(b)(6).

CONCLUSION

Accordingly, for the foregoing reasons, and upon all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Defendants Motion to Dismiss (clerk Doc. No.5) is GRANTED: and

2. Plaintiff Jeffrey Alan Olson's Complaint (ClerK Doc. No. 1) is DISMISSED WITH PREJUDICE.

February 16, 2000 "sPaul A. Magnunson
Paul A. Magnunson
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mr. Jeffrey Alan Olson
380 Bert Street, P.O. Box 536
Lake Crystal, Mn. 56055

Re: Olson V. Duffy, Civ. No. 99-1360 (PAM/JGL)

Dear Mr. Olson:

The Court is in reciept of your papers filed February 23, 200, entitled "Motion for A NEW TRIAL," and filed on March 29, 2000, entitled "Responsive Notice." The Court will not consider these papers, or any papers that you may file in the future relating to this lawsuit, because your lawsuit was dismissed with prejudice by the Court, as explained in its Memorandum Opinion and Order filed February 17, 2000. Because your lawsuit has been dismissed, your only redress is to file an appeal with the Clerk of Court of Eighth Circuit Court of Appeals, 500 Warren E. Burger Federal Building, 316 North Robert Street, St. Paul, Mn 55101.

May 10, 2000 s"Paul A. Magnuson

Paul A. Magnuson

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jeffrey Alan Olson Civ. File No. 99-1360 (PAM/JGL)
Plaintiff,

v. MEMORANDUM AND ORDER

State of Minnesota;
David M. Duffy;
Diana S. Eagon;
William R. Howard;
Marybeth Dorn;
Mary Catherine Lauhead; and
Kissoon, Clugg, Linder & Dittberner Ltd
Defendants.

This matter is before the Court on Plaintiff's Motion for a New Trial. In a February 16, 2000 Order, the Court dismissed Plaintiff's Complaint alleging: (1) lack of jurisdiction by the Minnesota state court that ruled upon the Plaintiff's marital dissolution, child custody, and visitation rights; (2) that Plaintiff was treated unfairly in the Minnesota dissolution, custody, and visitation hearings because tha Plaintiff acted as his own attorney in those proceedings; (3) that Plaintiff's visitation with his son and stepdaughter was improperly denied by the Minnesota state court; (4) that Plaintiff's career was damaged by the Minnesota court improperly taking jurisdiction over Plaintiff's dissolution, custody, and visitation matters; and (5) that the Minnesota court improperly refused to grant Plaintiff a continuance in one of the state court dissolution, custody, and visitation proceedings, and that a result of such refusal, Plaintiff lost his career in the United States Marine Corps. The Court treated Plaintiff's

Complaint as alleging a possible claim within this Court's jurisdiction under 42 U.S.C. & 1983 based on alleged violations of due process guaranteed by the Fourteenth Amendment. For the reasons set forth in the February 17, 2000 Order, the Court ruled that the Plaintiff's Complaint failed to state a claim within the Court's jurisdiction upon which relief can be granted. See Fed. R. Civ. P. 12(b)(1), 12 (b)(6). Judgment was entered against the Plaintiff on February 17, 2000. Upon reviewing all of the files, records, and proceedings herein, including the memorandum submitted in support of Plaintiff's Motion for a New Trial, the Court finds that Plaintiff's Motion for as New Trial is without merit.

CONCLUSION

Accordingly, for the foregoing reasons, and upon all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that Plaintiffs Motion for a New Trial (clerk Doc. No. 12) is DENIED.

July 27, 2000. s"Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
No.00-2614

Jeffrey Alan Olson,
Appellant,
v.
David M. Duffy, Judge;
Diana S. Eagon, Judge;
William R. Howard, Judge;
Marybeth Dorn, Referee;
Mary Catherine Lauhead,
Guardian Ad Litem,
Appellees,
Kissoon, Clugg, Linder &
Dittberner Ltd.,
Defendants.

Submitted: December 4, 2000
Filed: December 7, 2000
Before BEAM, FAGG, and LOKEN, Circuit Judges.
PER CURIAM.
Re: 00-2614 Jeffrey Alan Olson vs. David M. Duffy.

Jeffrey Olson appeals from the district court's dismissal of his civil complaint arising out of a child-custody proceeding. Upon de novo review of the record and the parties' submissions on appeal, see Springdale Educ. Ass'n v. Springdale Sch. Dist.,133 F.3d 649, 651 (8th Cir. 1998) (Fed. R. Civ. P. 12 (b)(6) dismissal); Lemonds v. St. Louis County, 222 F.3d 488, 492 (8th Cir. 2000) (Fed. R. Civ. P. 12 (b)(1) dismissal), we affirm for the reasons stated in the district court's order. See 8th Cir. R. 47B. We also deny appellant's motion on appeal.
A true copy.
Attest:
CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

United States Court Of Appeals
For The Eighth Circuit

No. 00-2614
Jeffrey Alan Olson, Appellant,
v.
David M. Duffy, et al., Appellees.

Order Denying Petition for Rehearing and for Rehearing En Banc

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

January 26, 2001
Order Entered at the Direction of the Court: "sMichael E. Gans
Clerk, U.S. Court of Appeals Eighth Circuit